



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

June 5, 2008

Jeff Oliveira, Environmental Resource Specialist
San Luis Obispo County Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408

Dear Mr. Oliveira:

VIBORG/CALKINS MITIGATED NEGATIVE DECLARATION (CONDITIONAL USE PERMIT ED07-082)

We reviewed the subject mitigated negative declaration and determined that it insufficiently addresses potential environmental impacts from the proposed project. The proposed project can impact water quality in several ways. Those potential impacts are as follows:

Fluvial Geomorphology

We understand that you based your fluvial geomorphology analysis on the following reports:

- *Anticipated Geomorphic Effects of In-Stream Mining on the Estrella River Near Airport Road, Paso Robles, San Luis Obispo County, California*, Sierra Delta Corporation, August 14, 2007
- *Peer Review of Proposed Viborg and Indian Valley Mines Geologic Studies*, Balance Hydrologics, Inc., June 27, 2007
- *Viborg – Estrella Mine Geomorphic report supplemental information per items identified by Balance Hydrologics, Inc.*, October 1, 2007

We further understand that your consultant, Balance Hydrologics, Inc., critiqued the Sierra Delta Corporation reports and concluded, "...that Sierra Delta Corporation has adequately addressed the potential environmental impacts associated with the proposed mining operations and... no follow-up studies are necessary from a geomorphic perspective." We disagree with that conclusion.

Although the studies considered available historic evidence to base interpretations and conclusions, the studies did not account for a changing climate. There is evidence that climate change is real. Climate change can alter the behavior of river systems. Any

predictions about river response to in-stream mining should consider historic behavior, as well as expected changes to historic patterns.

Even if the proposed mitigation restrictions and monitoring are sufficient to ensure site-specific geomorphic equilibrium, no such assurances exist for delayed and remote environmental impacts. A CEQA document must analyze and discuss all environmental impacts, including cumulative impacts.

The current state of practice for evaluating fluvial geomorphology impacts requires an informed assessment from a watershed perspective (i.e., a cumulative impacts analysis), not from a solely local perspective. In the Salinas River watershed, several factors affect sediment bed-load; in-stream mines, bridges, low water crossings, impingements, channel modifications, upland modifications, and man-made reservoirs. Bed-load changes affect channel stability, form, and function. For example, it is a fact that downstream agriculturalists placed automobiles as riprap to combat property loss from bank erosion. The bank erosion may be a reaction to sediment starvation in the river system. Despite having site-specific controls, the connection cannot be discounted without a cumulative impacts analysis.

For context, consider that the magnitude of the proposed sediment extraction from the Viborg and Indian Valley mines (about 170,000 cubic yards per year) exceeds the magnitude of the estimated sediment impounded behind the Santa Margarita Lake dam (about 160,000 cubic yards per year). The Santa Margarita Lake dam affects the discharge from a 110 square-mile watershed. That seems significant. The Salinas River does not have infinite capacity to yield sediment for commercial purposes. An informed understanding of "safe" sediment yields must be developed before agencies issue permits, even permits with local analysis, controls, and monitoring.

Local controls do not ensure river system stability. Take, for example, the case history involving the San Benito River in San Benito County, California. Along the San Benito River, many in-stream sand and gravel mines extracted sediment loads under permits issued by San Benito County. Despite the County-issued environmental analyses and County-issued permits that included local controls, widespread environmental impacts occurred. In a natural system, a river's energy transports sediments. If some sediment load is removed, the river's energy is not expended to carry the removed sediment. Thus, the energy is available to erode downstream formations. That is what happened in the San Benito River. It degraded fifteen feet in places, it undermined a State highway bridge, and it eroded downstream private property. Remote (away from the excavation area) loss of property and infrastructure occurred because river banks eroded to reestablish energy/sediment transport equilibrium. Those impacts were spatially and temporally removed from the time of excavation. That is, downstream erosion problems manifested long after the excavation occurred. Clearly, San Benito County did not adequately assess environmental impacts before approving use permits.

San Luis Obispo County's proposed environmental analysis seems similar to the environmental analyses that formed the basis for the San Benito River mining permits. Mitigation measures used by San Benito County were similar to mitigation measures proposed for the subject project; cross-sections before and after excavation and "red line" excavation limits. Those mitigation measures failed for San Benito County and there is no certainty that they will succeed for San Luis Obispo County under the current understanding of the river system.

Considering the above, we deem the fluvial geomorphologic analysis incomplete. To be complete, it must incorporate all inter-related components of river system, not just a small reach of one tributary. Just looking at short-term, local impacts from one mine ignores modern considerations for understanding mining impacts on river systems. Respectfully, we urge additional environmental analysis.

Point Source

The project includes a sorting and stockpiling area. Sorting typically involves washing, which produces a wastewater stream and waste silts. Industrial process wastewater discharges require a report of waste discharge.

Stormwater

The Clean Water Act, Section 402(p), establishes a framework for regulating industrial storm water discharges under the National Pollutant Discharge Elimination System (NPDES) Program. The regulations require that storm water associated with industrial activity that discharges either directly to surface waters or indirectly through municipal separate storm sewers must be regulated by an NPDES permit.

In compliance with the NPDES permit, the CEQA document must address the operator's requirements to enroll in the Industrial Stormwater General Permit and develop a Storm Water Pollution Prevention Plan (SWPPP) for activities under Standard Industrial Classification (SIC) code 1442 and possibly others. The SWPPP is a comprehensive list of Best Management Practices (BMPs) which are required to ensure that the proposed project will not adversely impact water quality or any biological resources.

The SWPPP must require analysis of stormwater samples from two events each wet season from all discharge points. We expect this to be mainly from the terrace area where the operators will process the sand and gravel and turbid water from gravel washing or screening that may flow to surface water or impact ground water through a coarse vadose zone. As such, operators are required to analyze each water sample for general minerals (pH, total suspended solids, electrical conductivity, oil and gas/total organic carbon) and nitrate-nitrogen. The operators must also analyze for Title 22 metals (combined Hazardous Waste and Drinking Water) to determine if surface water or groundwater could be degraded because:

- gravel washing (possibly with additives) mobilizes or dissolves otherwise immobile, naturally occurring metals or
- crushing, and resulting increases sediment surface area, releases metals due to chemical reactions (oxidation and hydration).

The mine operators must institute an effective combination of erosion and sediment control BMPs throughout the processing area to prevent erosion and discharge of sediments, non-visible pollutants, and non-stormwater flows from the processing area to the Salinas River or other surface waters. Importantly, the SWPPP must address dust suppression BMPs and account for any chemicals sprayed on haul roads that could migrate to surface or ground waters. When considering dust control BMPs, mine operators cannot use chloride, petroleum, or polymer-based additives. All measures must comply with State and local air board regulations and protect beneficial uses of the Salinas River and other surface waters.

During mine operations and for the post-operational phase, the operators must document the disposition and fate of all sediment fines generated in the mining process and not exported from the facility.

The CEQA document must also consider post-operation measures to address potential site contamination and restoration plans. A bond may be an effective tool to ensure funds are available to restore the site to pre-industrial use condition or comply with future, as yet unknown, requirements for mitigating environmental impacts. Minimally, the CEQA document must address site restoration plans explaining methods and plant species used for post-operation habitat restoration.

Conclusion

The subject mitigated negative declaration is insufficient to address potential environmental impacts from the proposed project. We recommend additional study.

If you have any questions, please contact **Tom Kukol** at (805) 549-3689 or email via tkukol@waterboards.ca.gov.

Sincerely,



Roger W. Briggs
Executive Officer